IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (lodg) NO.668 OF 2006

IN

SUIT NO.750 OF 1987

Kanaiyalal Ishwarlal Vaghani and others. ...Appellants (orig.deft.2 to 6)

vs.

Rajkumar D. Tainwalal & Anr. ...Respondents.

Ms.Veena Advani i/b. M/s.Law Charter, for Appellants.

CORAM: D.K.DESHMUKH &

J.H. BHATIA, JJ.

DATED: 24th September, 2007.

P.C.:-

1. We had issued a notice in the notice of motion no.3484 of 2006 putting the original

plaintiff on notice that the Court will hear the appeal finally alongwith the notice of motion no.3484 of 2006. The appellants have filed affidavit of service which shows that the original plaintiff has been duly served with the notice. Pursuant to the order passed in Notice of Motion no.3484 of 2006, the appellants have deposited the amount of Rs.1,00,000/-. They are also willing to file their written statement within a period of four weeks from today.

2. Taking overall view of the matter therefore, in our opinion, the following order would meet the ends of justice:-

Order dated 16.6.2006 passed in Suit no.750 of 1987, to the extent that it passes decree against the defendant nos. 2 to 6 who are the present appellants, is set aside.

The amount of Rs.1,00,000/- which is deposited by the appellants pursuant to the order

dated 26.7.2007 passed in Notice of motion no.3484 of 2006 shall be held to the credit of Suit no.750 of 1987. Prothonotary & Sr.Master of this Court shall invest that amount in fixed deposit in a nationalised bank during the pendency of the suit. Disposal of the amount will be governed by the order that may be passed in the Civil Suit.

In case, the defendant nos. 2 to 6 file their written statement within a period of four weeks from today, it be taken on record and thereafter, the suit be put up before the appropriate Court for further orders.

In case the defendant nos. 2 to 6 do not file written statement during the aforesaid period, office shall treat this appeal as dismissed.

Appeal is disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)